88-511

Supreme Court, U.S.
FILED
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JOSEPH F. SPANIOL, JR.
CLERK

No. _____

IN THE SUPREME COURT OF ~~THE UNITED STATES~~

OCTOBER TERM, 1987

THE STATE OF MICHIGAN,

Petitioner

vs.

TERRANCE ALVIN EVANS,

Respondent

PETITION FOR A WRIT OF CERTIORARI

TO THE RECORDER'S COURT

FOR THE CITY OF DETROIT

JOHN D. O'HAIR
Prosecuting Attorney
County of Wayne

TIMOTHY A. BAUGHMAN
Chief of the Criminal Division
Research, Training & Appeals

JEFFREY CAMINSKY
Assistant Prosecuting Attorney
1204 Frank Murphy Hall of Justice
Detroit, Michigan 48226
Phone: (313) 224-5846

50pd

QUESTION PRESENTED

ONCE A CRIMINAL SUSPECT HAS REQUESTED COUNSEL UNDER EDWARDS v ARIZONA, DOES THE ACT OF INQUIRING ABOUT HIS WILLINGNESS TO TAKE A POLYGRAPH TEST CONSTITUTE "WORDS OR ACTIONS WHICH POLICE SHOULD KNOW ARE REASONABLY LIKELY TO ELICIT AN INCRIMINATING RESPONSE?"

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IN THE SUPREME COURT OF THE UNITED STATES

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PETITION FOR A WRIT OF CERTIORARI

TO THE RECORDER'S COURT

FOR THE CITY OF DETROIT

NOW COME the People of the State of Michigan, by John D. O'Hair, Prosecuting Attorney for the County of Wayne, Timothy A. Baughman, Chief of the Criminal Division, Research, Training and Appeals, and Jeffrey Caminsky, Assistant Prosecuting Attorney, and pray that a

writ of certiorari issue to review the judgment of the 36th District Court of the City of Detroit, entered in this cause on April 3, 1987, affirmed by the Recorder's Court of the City of Detroit, on August 6, 1987, leave to appeal denied by the Michigan Court of Appeals on March 25, 1988, leave to appeal denied by the Michigan Supreme Court on July 25, 1988.

OPINIONS BELOW

The opinion of the 36th District Court is unreported, and is appended below as Appendix A; the opinion of the Detroit Recorder's Court is unreported, and is appended below as Appendix B; the order of the Court of Appeals denying leave to appeal is unreported, and appended below as Appendix C; the order of the Michigan Supreme Court denying leave to appeal is unreported as yet, and appended below as Appendix D.

STATEMENT OF JURISDICTION

The 36th District Court entered judgment on April 3, 1987. The Detroit Recorder's Court entered judgment on August 6, 1988. The Michigan Court of Appeals entered judgment on March 25, 1988. The Michigan Supreme Court entered judgment on July 25, 1988. This Court's jurisdiction is invoked under 28 USC Sec. 1257(3).

CONSTITUTIONAL PROVISIONS INVOLVED

Article III of the United States Constitution provides, in pertinent part:

> "1. The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish....
>
> "2. The judical Power shall extend to all cases, in Law and Equity, arising under this Constitution, the Laws of the United states, and Treaties made, or which shall be made, under their Authority.....
>
> "....[T]he supreme Court shall have appellate Jurisdiction, both as to

> Law and Fact, with such Exceptions, and under such Regulations, as the Congress shall make."

The Fifth Amendment to the United States Constitution provides, in pertinent part:

> "No person shall...be compelled in any criminal case to be a witness against himself, nor deprived of life, liberty, or property, without due process of law...."

The Sixth Amendment to the United States Constitution provides, in pertinent part:

> "In all criminal prosecutions, the accused shall enjoy the right...to have the Assistance of Counsel for his defense."

The Fourteenth Amendment to the United States Constitution provides, in pertinent part:

". . . No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdictions the equal protection of the laws."

STATEMENT OF THE CASE

On March 22, 1987, a woman named April Steward died in the City of Detroit from multiple stab wounds and blunt force injuries; wounds and abrasions on her arms indicated that she died during a struggle.

On March 23, 1987, acting on tips from other witnesses, Detroit Police Officer Michael Dekum arrested Respondent. After advising him of his Constitutional rights, Dekum took a statement in which Respondent claimed that he had borrowed the victim's car, and that when he called to let her know that he could return it,

he got no answer at her house; the following day he learned that she had been stabbed to death, and so he hurried over to return the car.

Later that same day, Dekum talked to Respondent again, this time advising him of the fact that certain people mentioned in Respondent's statement had not confirmed his version of events. Respondent replied by saying that "there was a slight argument," and that he wanted a lawyer.

The following day, Dekum prepared a warrant request and took it to the prosecutor's office for approval. Citing insufficient evidence, the warrant prosecutor denied the request, "pending further investigation." Dekum then took Respondent back to police headquarters, into the interrogation room, and asked

whether he (Respondent) would be willing to take a polygraph test to confirm his previous statement. Respondent replied that it would not be necessary, that he had been "thinking about April all night," and that he wanted to tell Dekum "the truth of what happened." Respondent then confessed to the murder, after being once again advised of his Constitutional rights. Shortly thereafter, Respondent agreed to see his mother, who was crying and very upset; Respondent told her, "I did it, I wanted to tell the truth." Shortly thereafter, Respondent was charged with first-degree murder.

On April 3, 1987, the examining magistrated dismissed the murder charges, holding that police had illegally obtained Respondent's confession, and citing the cases of Edwards v Arizona, 451 US 477 (1981) and People v Paintman,

412 Mich 518; 315 NW2d 418 (1982). She ruled that if the confession were admitted, then there was "sufficient evidence to bind the defendant over for trial." However, without the confession "the People have been unable to show probable cause that [Respondent] committed this crime," and so she entered an order of dismissal.

On August 6, 1987, the reviewing judge of Detroit Recorder's Court affirmed the magistrate's dismissal; on March 25, 1988, the Michigan Court of Appeals denied Petitioner leave to appeal; and on July 25, 1988, the Michigan Supreme Court also denied leave to appeal. The case is now before this Court on the instant Petition for writ of certiorari.

REASONS FOR GRANTING THE WRIT

While the facts of this case are simple, the constitutional principles involved are far-reaching, affecting the relationship between citizens, and those sworn to uphold the law. It also suggests the practical limitations that reality imposes upon idealism, at once showing how the diversity of life is beyond the ability of any court to foresee, and illustrating the fallacy of using the law to effect social policy rather than justice.

In this case, the day after Respondent asserted his right to counsel and halted his interrogation, the police approached him and asked whether he would be willing to take a polygraph test. This contact led Respondent to make a confession to the underlying murder. While it is undisputed that Respondent was in custody, and that the police question to

him concerned the underlying charges against him, there is a substantial question about whether, under the circumstances of this case, an inquiry about his willingness to take a polygraph test constituted "interrogation," within the prior decision of this Court. Upon the answer to this question hinges more than a murderer's fate; the question speaks more deeply to this Court's devotion to the rule of law, and whether it means its rules to be the servant of Justice, or her master.

In Miranda v Arizona, 384 US 436; 86 S Ct 1602; 16 L Ed 2d 694 (1966), this Court determined that the Fifth Amendment required the police to apprise each suspect in custody of his constitutional right against self-incrimination before proceeding to interrogate

him.[1] In Rhode Island v Innis, 446 US 291, 301; 100 S Ct 1682; 64 L Ed 2d 297 (1980), the Court defined "custodial interrogation" as including "not only express questioning, but also...any words or actions on the part of the police.... that the police should know are reasonably likely to elicit an incriminating response...." And in Edwards v Arizona, 451 US 477, 484-485; 101 S Ct 1880; 68 L Ed 2d 378 (1981), this Court held that "an accused,.... having expressed his desire to deal with the police only through counsel, is not subject to further interrogation by the authorities until counsel has been

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[1] It appears that this Court has never analyzed its own underlying authority under Article III of the Constitution to determine whether the holding in Miranda was within its power. See Grano, Prophylactic Rules in Criminal Procedure: A Question of Article III Legitimacy, 80 Nw L Rev 100 (1985) for a discussion of the problem.

made available to him," unless the accused himself initiates the contact with police.

So long as the issue is clearly drawn as one involving questioning by the police about the crime itself, the rule is easy enough to administer. See, eg, People v Paintman, 412 Mich 518; 315 NW2d 418 (1982) cert den 456 US 995; 102 S Ct 2280; 73 L Ed 2d 1292 (1982); compare, United States v McLaughlin, 777 F2d 388 (CA 8, 1985); United States v Sims, 719 F2d 375 (CA 11, 1983); State v Evans, 203 Conn 212; 523 A2d 1306 (1986). But once we proceed to consider questions at the margins -- once we begin analyzing the true meaning of this Court's phrase "words or action...reasonably likely to elicit an incriminating response" in cases that, like life, are inherently

ambiguous -- problems emerge, and consensus vanishes. This has caused wide divergence among the federal circuits in their determination of the question, suggesting that further refinement of the definition of "interrogation" is necessary. In United States v McCain, 556 F2d 253, 256 (CA 5, 1977), for example, the Fifth Circuit found that the authorities "deliberately" and "designedly" set out to elicit an incriminating response when they informed the defendant of the dangers involved in carrying contraband in her body, following an unsuccessful strip search, and suppressed the ensuing confession because the police had failed to give Miranda-warnings. Similarly, the Ninth Circuit found "interrogation" when the police "baited" the defendant into responding by using provocative taunts -- calling him a "pimp" and a "doper," and

one who "sells dope to little black children" -- to goad him into admitting that he sold "to honkies and white bitches and whores," and ultimately to replying, "So what if I sell it, you white honkies bring it into the country." United States v Brown, 720 US 1059, 1064 (CA 9, 1983). See also Wilson v O'Leary, ___ F Supp ___; 43 CrL 2035 (ND Ill, 1988), where the court found "interrogation" in the act of purporting to lead a suspect among a hostile crowd, even in the absence of any official questioning.

On the other hand, some circuits have taken a different approach: In United States v Guido, 704 F2d 675 (CA 2, 1983), the Second Circuit rejected the notion that a discussion of the advisability of co-operation by the defendant -- even a defendant who has requested counsel --

constituted "interrogation" under Miranda, where the record contains "no indication that the agent's conduct was designed to elicit an incriminating response." Guido, supra at 677. Cf, United States v Thierman, 678 F2d 1331 (CA 9, 1982). And in a case distinctly similar to the one at bar, the District of Columbia Circuit held that an officer's casual inquiry to a defendant who had requested counsel about what he was going to do -- which resulted in the defendant blurting out an incriminating response that far exceeded the scope of the question -- did not constitute "interrogation," and that the resulting voluntary statement was properly admissible into evidence. United States v Hackley, 636 F2d 493 (DC, 1980).

State courts, as well, have approached the matter with inconsistent results.

Thus, in People v Morris, 192 Cal App 3d 390; 237 Cal Rptr 402 (1987), the California Court of Appeals found interrogation when a police officer asked the defendant who he (the defendant) was accused of killing; on the other hand, the Maine Supreme Court, in State v Friel, 508 A2d 123 (Me, 1986), found no interrogation in the act of handing an accused a copy of the warrant charging him with murder, and permitting him to read it in their presence. Some states have found interrogation in the act of informing the defendant of the factual basis leading them to charge him with a crime, as opposed to telling him the charge itself, Koza v State, 718 P2d 671 (Nev, 1986); State v Smith, 343 SE2d 518 (NC, 1986) -- even if the defendant's response to the information comes well after the fact, after leaving

him alone in his cell. Wainwright v State, 504 A2d 1096 (Del, 1986).

While not precisely on point, perhaps the closest cases factually to the one at bar concern police requests for a suspect to take another form of physical test -- ie, a breathalyzer. In Schmerber v California, 384 US 757; 96 S Ct 1826; 16 L Ed 2d 908 (1966), this Court held that a state could compel a defendant to submit to a blood-alcohol test without violating his Fifth Amendment right against self-incrimination; in South Dakota v Neville, 459 US 553, 554; 103 S Ct 916; 74 L Ed 2d 748 (1983), this Court held that introducing evidence of the defendant's refusal to submit to such a test "likewise does not offend the right against self-incrimination." Other jurisdictions have similarly held that a defendant's response, however phrased, to

a police request to take a blood-alcohol or breathalyzer test does not constitute "interrogation," and thus may be admitted into evidence even in the absence of Miranda-warnings. State v Stever, 107 NJ 543; 527 A2d 408 (1987); cf, West v State, 511 So2d 258 (Ala Cr App, 1987)(Police reply to accused's question about purpose of test, leading to accused's incriminating remark, held not to be interrogation).

Admittedly, as this Court noted in Schmerber, supra at 384 US 764, there are important differences between blood-alcohol tests and polygraphs. For one thing, many states condition the issuance of a drivers's license upon an "implied consent" to blood-alcohol tests, and blood-alcohol tests are commonly accepted for their accuracy, objectivity, and relative convenience.

Polygraph tests, on the other hand, are generally inadmissible into evidence, and while seeking to read ostensibly physical evidence, have as their goal reading the defendant's soul, to discern whether he knows that he is lying.

Still, as far as "interrogation" is concerned, there should be no difference -- for purposes of constitutional analysis -- between a request to take one scientific test or another: the likely response to any request to take a scientific test is "Yes," "No," or "I want to talk to my lawyer first." Certainly, a full confession in response to a casual request to take such a test goes so far beyond the anticipated answer that it cannot be considered the product of "interrogation." Cf, United States v Hackley, supra; State v Stever, supra. Moreover, the police in this

case knew that the test results would be inadmissible into evidence -- for state law bans even the mention of polygraphs during trial, see, eg, People v Barbara, 400 Mich 352; 255 NW2d 171 (1977); People v Johnson, 396 Mich 424; 240 NW2d 729 (1976) cert den 429 US 951; 97 S Ct 370; 50 L Ed 2d 319 (1976); People v Rocha, 110 Mich App 1; 312 NW2d 657 (1981). This merely underscores the confusion surrounding this Court's definition of "interrogation," and the need for clarification.[2] In any event, as Michigan has misconstrued the proper limits of the Fifth Amendment, this Court should intervene to correct it; as this

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[2] But see Justice Mitchell's timeless, if often-ignored observation in State v Sauer, 38 Minn 438, 439; 38 NW 355 (1888): "Like many other definitions," he wrote, "it does not define, but itself requires definition."

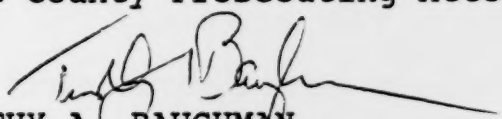
One hopes that any "clarification" would actually clarify, but experience is often a cruel teacher.

misconstruction comes in an already confusing area of the law, and in a context which this Court has yet to explore, Petitioner suggests that this Court grant plenary review to consider to matter in detail.

CONCLUSION

WHEREFORE, Petitioner prays that this Court grant plenary review, reverse the holding of the State court, and remand the cause for proceedings consistent with this Court's opinion.

JOHN D. O'HAIR
Wayne County Prosecuting Attorney



TIMOTHY A. BAUGHMAN
Chief of Criminal Division
Research, Training & Appeals

JEFFREY CAMINSKY
Assistant Prosecuting Attorney
1204 Frank Murphy Hall of Justice
Detroit, Michigan 48226
Phone: (313) 224-5846

Dated: September 7, 1988

JC/mlw

APPENDIX

RULING OF THE EXAMINING MAGISTRATE

* * *

THE COURT: Recalling case number 87-58381, People versus Terrance Alvin Evans. Your appearance please?

[Prosecutor] Herbert Roberts, on behalf of the People.

[Defense Counsel] Steve Sonenberg, on behalf of the Defendant, Terrance Alvin Evans.

THE COURT: Counsel I will read the ruling on your motion that I took under advisement before we continue with the Prosecutor's offering of People's Exhibit 3 which is the confession of this defendant.

The record should reflect that I chose to take proofs that weight so that in the event this Court is appealed and reversed, it was my hope that it would not be necessary to have the case come back here for an examination. In other words, had I granted the motion at that time then People's Exhibit 3 would not have been offered. Had I granted your motion and excluded it, then obviously, it would be necessary to come back and do an exam again. So that the People could offer it and introduce it into evidence.

In the preliminary examination, it is necessary for the People to show, first of all, that a crime was committed, and committed in the City of Detroit. It is clear from the stipulations that were offered at the

beginning of the exam today that the corpus delicti of the crime of murder was shown by the People. It is also necessary for the People to show at the preliminary examination that there is probable cause to believe that Terrance Evans committed this crime. The only connection offered at the examination in regards to this is the confession of the defendant, People's Exhibit 3.

The issue that has been brought before this Court is the admissibility of this statement made by the defendant in police custody after he has requested an attorney, and the defendant had been advised of his rights. And the inculpatory statement was made without having conferred with counsel.

I offer to view a second issue which is the necessity if any of a Walker Hearing to determine whether or not this confession should be admitted. As you know, a Walker Hearing determines the voluntariness of a confession and afford[s] the defendant an opportunity to offer to the Court the circumstances surrounding a confession without waiving his 5th... Amendment rights at the time of trial. I believe this was a preliminary question that the Court had to face and for the record, I will indicate that I do not believe a Walker Hearing is necessary in this case. I think that the Court can rule on this as a matter of law because I am assuming that everything the testifying Officer said is true. And there doesn't seem to be any dispute

as the essential facts which are as follows:

That April Steward was murdered on March 22, 1987. That the defendant was taken into custody on March 23 of 1987 at approximately 10:00 o'clock in the morning. That he was held in the interrogation room and was initially interviewed or interrogated after he was given his constitutional rights. At 12:55 p.m., after he was given his rights, he made a statement. This is indicated in People's Exhibit 1. On March 23, 1987, at 8:30 p.m., the Officer testified that the defendant requested an attorney. [He] was also given his rights at that time, People's Exhibit 2, indicating a time of 8:25 p.m. The next day on March 24th, the Officer testified that between 12:30 and 1:00 o'clock, Wayne

County Prosecutor Jean Marson denied a warrant against Mr. Evans. He had already been transferred to the 36th District Court for arraignment. When the Prosecutor denied the warrant, the Police Officer transported him back to jail from the 36th District Court. Actually, back to Police Headquarters at which time, the Officer asked the defendant, do you want to take a lie detector test. In response to that question began a series of conversation that resulted in the confession offered in People's Exhibit 3. The defendant's initial response according to the testifying Officer was that that was not necessary. That he wanted to tell the truth. He was given his rights as indicated in People's Exhibit 3 by the Certification of Notification Form.

....The record should be clear that if the confession is admitted, there is sufficient evidence to bind the defendant over on the charge contained in the complaint and warrant. I indicate that for the record in case of a reversal of my ruling. This Court finds as a matter of law based on the undisputed facts offered that the defendant's confession should be suppressed.

I realize [sic -- rely??] specifically upon three cases cited correctly by the attorneys in this matter. I was not persuaded by the Prosecutor's reference to the State of Rhode Island v Thomas J. Innis which is found at 446 US 291. This case was decided on May 12, 1980. In this case upon which the Prosecutor relies, a taxicab driver had died as a result of

a shotgun blast and another taxicab driver had been robbed by a person with a sawed-off shotgun. That driver identified his assailant by a photo lineup. And a Police Officer was the man whose picture had been identified and saw this person in the area of a school for handicapped children. The man was arrested, advised of his right, and requested an opportunity to speak with a lawyer. On the way back to the police station, the two Officers in the car had a conversation about how terrible it would be if on of those handicapped children found the weapon, and innocent people were injured. Because this weapon had been abandoned in that area.

The defendant then it is assumed after hearing the Officer had this discussion requested that they turn

around and go back to the area. And they returned to the scene, and they searched for the shotgun, and the defendant made further statements.

Now the reference between that case and this case was that this defendant did not initiate the discussion that was held after his departure from the 36th District Court. There is no indication that he changed his mind and wanted to have a discussion further about the facts of this matter with the Officer. And this decision is based upon the testimony of the Officer.

I reject the Prosecutor's argument that this statement was not of a nature to be characterized as interrogation. A question "do you want to take a lie detector test."

Couldn't be anymore decided to be a probe in an attempt to interrogate the defendant as to his possible guilt in the matter. It is a direct reflection on the Officer's behalf that the defendant had been not telling the truth. Since he was first taken into custody at 10:00 o'clock the previous morning.

The cases that I think are more on point are Edwards v Arizona 451 US 477 decided May, 1981. This case involves two custodial interrogations. The defendant was charged with robbery and first degree murder. And was informed at the police station of his rights. After the initial questioning, the defendant requested an attorney and the interrogation ceased. Much like this case in a sense that once the defendant requested an attorney there

was no more interrogation until the Officer['s] request for a warrant was denied. Getting back to the Edwards case, the next morning after the day before when the attorney was requested, the Police Officer came to the jail and requested that the guard bring up the defendant. He was again advised of his rights, and the defendant implicated himself in the crime. This confession was suppressed, the Supreme Court held that the admission of the confession obtained from the defendant at the custodial interrogation on the day following defendant's request for counsel violated his 5th Amendment right to have counsel present at the custodial interrogation. Also helpful is People v Paintman and the companion case of People v Conklin both found at 412 Mich 518 decided in February, 1982

by the Michigan Supreme Court. I think that these cases are very close to the facts that we have in this case. I think they are dispositive of this matter for the reason cited. I am suppressing People's Exhibit Number 3, the confession of Mr. Evans. And without it, the People have been unable to show probable cause that Mr. Evans committed this crime. And for that reason his case is dismissed.

* * *

STATE OF MICHIGAN
IN THE RECORDER'S COURT
FOR THE CITY OF DETROIT

THE PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff,

vs

No. 87-100017

TERRANCE ALVIN EVANS,

Defendant.

36th District Court No. 87-58381

ORDER OF AFFIRMANCE

At a session of said Court, held in the City of Detroit, Wayne County, Michigan on August 6, 1987.

PRESENT: Hon. Robert L. Evans

This cause having come to be heard on Plaintiff's appeal from the 36th District Court of the State of Michigan; and the Court having read the briefs in this matter, and being fully advised in the premises:

IT IS THEREFORE ORDERED AND ADJUDGED that the order of the magistrate

dismissing the underlying cause be, and the same is hereby AFFIRMED, for the reasons stated on the record.

/s/ Robert L. Evans
Recorders Court Judge

Approved as to form:

/s/ Steven Sonenberg

EXTRACT FROM RECORDER'S COURT RECORD

* * *

THE COURT: ....Under the Innis case the conduct of the police officer gets focused upon and the invitation is to determine whether or not the officer by his acts, words and deeds did something to elicit from the Defendant a response inconsistent with the Defendant's earlier admonition that he wished Counsel. Taken as an isolated proposition, if the question had been asked of the Defendant on the way back from police lockup in the context of his impending release, I would rush to agree with the Prosecutor that there is nothing instrinsic to the words themselves that would make an officer believe that the Defendant would most assuredly make a statement or repudiate an earlier position desiring an attorney.

In the broader context of waiting a while after the warrant is denied and taking him back or taking him into an interrogation room, and inviting him to take the lie detector test, in the broader context of the fact that between 8:00 p.m. one day and past noon the next day the Defendant's request for an attorney had not proved productive of anything, I think that the words take on a different significance. At least I can say with respect to that point that the magistrate who heard the argument did not abuse her discretion in determining the Defendant's rights were violated.

I think the case though is a little bit less complicated than that. From my perspective I can't grasp how an invitation to take a lie detector test is not questioning in and of itself. I can't grasp how the issue is not simply

one of whether or not the police knew or did not know that it might be construed as an invitation to make a statement, or the Defendant is likely to respond to his detriment or make a confesional response. I don't know what they do on lie detector tests except question and I think that the question inviting the Defendant to take a lie detector test is further quesitoning. And I wouldn't have reached the more sophisicated issues.

On those two grounds I think that the magistrates determination should be affirmed.

* * *

ORDER OF THE MICHIGAN COURT OF APPEALS

AT A SESSION OF THE COURT OF APPEALS
OF THE STATE OF MICHIGAN,
Held at the Court of Appeals in the City of Grand Rapids, on the 25th day of March in the year of our Lord one thousand nine hundred and eighty eight.

Present the Honorable
DAVID H. SAWYER,
Presiding Judge

GARY R. McDONALD
DONALD E. HOLBROOK, Jr.,
Judges

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

No. 102989

L.C. No. 87-100017

-v-

TERRANCE ALVIN EVANS,

Defendant-Appellee.

In this cause an application for leave to appeal is filed by plaintiff, and an answer in opposition thereto having been filed, and due consideration thereof having been had by the Court,

IT IS ORDERED that the application be, and the same is hereby DENIED for lack of merit in the grounds presented.

STATE OF MICHIGAN--ss.

I, Ronald L. Dzierbicki, Clerk of the Court of Appeals of the State of Michigan, do hereby certify that the foregoing is a true and correct copy of an order entered in said court in said cause; that I have compared the same with the original, and that it is a true transcript therefrom, and the whole of said original order.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court of Appeals at Lansing, this 31st day of March in the year of our Lord one thousand nine hundred and eighty-eight.

/s/Ronald L. Dzierbicki
Chief Clerk

MICHIGAN SUPREME COURT
Lansing, Michigan

Dorothy Comstock Riley
Chief Justice

Charles L. Levin
James H. Brickley
Michael F. Cavanagh
Patricial J. Boyle
Dennis W. Archer
Robert P. Griffin
Associate Justices

ORDER
Entered: July 25, 1988

83034

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

SC: 83034
COA: 102989
LC: 87-100017
DC: 87-58381

-v-

TERRANCE ALVIN EVANS,

Defendant-Appellee.

On order of the Court, the application for leave to appeal is considered, and it

is DENIED, because we are not persuaded that the question presented should be reviewed by this Court.

0719

I, CORBIN R. DAVIS, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of Court.

July 25, 1988

/s/Jacqueline B. MacKinnon
Deputy Clerk